

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

UNITED STATES OF AMERICA ET. )  
AL., EX REL., SCARLETT LUTZ AND )  
KAYLA WEBSTER, )  
 )  
Plaintiff/Relators, ) Civil Action No.: 9:14-cv-3699-RMG  
 )  
 )  
v. )  
 )  
 )  
LABORATORY CORPORATION OF )  
AMERICA HOLDINGS, )  
 )  
Defendant. )

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**METROLINA MEDICAL ASSOCIATES, P.A.'S RESPONSE TO PLAINTIFF'S  
MOTION TO COMPEL PRODUCTION OF DOCUMENTS FROM THIRD PARTY  
METROLINA MEDICAL ASSOCIATES, P.A.**

Metrolina Medical Associates, P.A. ("Metrolina"), a non-party in the above case, responds to the Plaintiff's Motion to Compel Production of Documents pursuant to a Subpoena to Metrolina dated May 7, 2020, a copy of which is attached hereto as Exhibit 1 ("Subpoena"), as follows:

Following a series of conversations and exchange of emails between counsel for the Plaintiff and Metrolina, (copies of which are attached as Exhibit 2), Metrolina prepared and served a five (5) page objection to the Subpoena dated May 19, 2020 ("Objection") citing numerous federal cases requiring the Plaintiff to reimburse a non-party, like Metrolina, for legal expenses incurred in complying with a lengthy, complex nine (9) page Subpoena. See Exhibit 3.

In response to the copious case law cited in Metrolina's Objection, Plaintiff sent a terse, dismissive email on June 8, 2020, threatening to file a Motion to Compel without citing one case supporting his onerous and unfair opinion, a copy of which is attached hereto (along with Metrolina's good faith response) as Exhibit 4.

As stated in the Motion to Compel, this is the second (2<sup>nd</sup>) Subpoena served by Plaintiff's on Metrolina and its owner, Rajesh Kedar, MD. The first was dated March 6, 2020 and is attached as Exhibit 1 to the Plaintiff's Motion to Compel.

Rightfully, when served with a complex, nine (9) page Federal Court Subpoena, from one of the largest law firms in the country, Rajesh Kedar, MD, the owner of Metrolina, sought legal counsel to advise him and Metrolina on how to response.

As the Court can see from a review of Exhibits 2 and 3, Metrolina and its counsel have acted in good faith and have solicited the cooperation of the Plaintiff in each and every email sent. For example, in my email to Plaintiff's counsel dated April 17, 2020, after reviewing their 1<sup>st</sup> Subpoena (10 pages) and prior to the service of the 2<sup>nd</sup> Subpoena, I stated:

“I am concerned about the time and expense associated with complying with your new Subpoena. I have at least one thousand (1,000) documents, in my... files, related to the HDL case, that ‘could be’ responsive to your Subpoena. It will take time to review each document and make a determination if it is responsive to one or more of the numerous requests made in your Subpoena.”

“Since my client... [is] not a party to the Lutz litigation, it should not incur any out of pocket expense (to include legal expenses) to comply with your Subpoena. How does your client plan to compensate me and my clients as we attempt to timely comply with your anticipated Subpoena...”

“Hopefully we can reach a mutual agreement in good faith, to address this important issue...”

That offer was rejected by the Plaintiff.

Plaintiff acknowledges that Metrolina has previously incurred legal expenses in responding to a Civil Investigative Demand (CID No. 2016-D-23) dated 8-17-2016 and to a Subpoena for documents and Interrogatories dated November 7, 2016 in the companion case of United States ex. rel. Dr. Michael Mayes, et.al v. Berkeley Heartlab, Inc., et. al., Civil Action No. 9-14-cv-00230. As such, much of the information subpoenaed could have been obtained from the U.S. Attorney's office for the District of South Carolina or the US Department of Justice who is a party to the litigation without inconveniencing and burdening Metrolina and its owner, Dr. Rajesh Kedar, with reviewing and responding to two (2) complex and onerous Subpoenas.

I trust that the Court will find a fair and equitable manner to protect Metrolina, a small medical practice and a non-party in the pending litigation, from legal expenses incurred in responding to Plaintiff's Motion to Compel and in responding to the two complex subpoenas referenced above.

Respectfully submitted,

s/ David A. Anderson  
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June 23, 2020